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DEPARTMENT OF ENERGY

Office of **Civilian Radioactive Waste** Management

**Safe Transportation** and Emergency Response Training; Technical Assistance and Funding

AGENCY: Office of **Civilian Radioactive Waste** Management, Department of Energy.

ACTION: Notice of inquiry.

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SUMMARY: The Department of Energy (the Department) intends to implement a program of technical assistance and funding to train State, local and tribal public safety officials of appropriate local jurisdictions with regard to the transport of spent nuclear fuel or high-level **radioactive waste**. The training would cover **safe** transport procedures and emergency responses. This notice briefly describes implementation options being considered, and members of the public are invited to comment.

The Department expects to hold public meetings in order to facilitate active public involvement in development of policies and procedures to administer the program.

DATES: Written comments should be mailed to the Department and must be received on or before April 3, 1995.

ADDRESSES: Written comments (3 copies) should be directed to: U.S. Department of Energy, c/o Lois Smith, TRW Environmental Safety Systems, 2650 Park Tower Drive, Suite 800, Vienna, Virginia 22180, ATTN: Section 180(c) Comments.

Persons submitting comments should include their names and addresses. Receipt of comments in response to this Notice will be acknowledged if a stamped, self-addressed postal card or envelope is enclosed.

FOR FURTHER INFORMATION CONTACT: For further information on the **transportation** of spent fuel and high-level **radioactive waste** under the Nuclear **Waste** Policy Act, please contact: Mr. Allen Benson, Operational Activities Team Leader, Office of **Civilian Radioactive Waste** Management (RW-45), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone: 1-202-586-2280. For general information on this Notice, please contact: Ms. Ellen Ott, Office of General Counsel, (GC-52), U.S. Department of Energy, 1000 Independence

Avenue, SW., Washington, D.C. 20585, Telephone: 1-202-586-6975.

Information packets are available for interested persons who want background information about Office of **Civilian Radioactive Waste** Management (OCRWM) **transportation** prior to providing comments. To receive an information packet, please call: 1-800-225-NWPA (or call 488-5513 in Washington, D.C.) or write to the OCRWM Information Center, Post Office Box 44375, Washington, D.C. 20026.

Copies of comments received will be available for examination and may be photocopied at the Department's public reading room at 1000 Independence Avenue SW, room 1E-190, Washington, D.C.

#### SUPPLEMENTARY INFORMATION:

##### Purpose and Need for Agency Action

Under the Nuclear **Waste** Policy Act of 1982, as amended, (the Act) (42 U.S.C. 10101 et seq.), the Department is responsible for managing the disposal of spent nuclear fuel from **civilian** nuclear power plants and high-level **radioactive waste**, and for possible monitored retrievable storage of spent nuclear fuel prior to disposal. The Department is also responsible for **transportation** of spent nuclear fuel to the Department's disposal or storage site. In order to carry out these responsibilities, the Department needs to develop a policy and procedures to implement Section 180(c) of the Act which authorizes technical assistance and funds to States for training public safety officials of appropriate units of local government and Indian tribes in **safe** routine transport and emergency response through whose jurisdiction the Secretary of Energy plans to transport spent nuclear fuel. To ensure that the full range of issues and alternatives related to the policy and procedures is addressed, the Department invites comments regarding the scope and implementation mechanisms of Section 180(c).

##### Section 180(c) History

The Department's work to date on Section 180(c) policies and implementation procedures has been discussed primarily in three forums: **Transportation** Coordination Group meetings, **Transportation** External Coordination Working Group meetings and several cooperative agreements with national and regional organizations representing State, local and tribal constituencies. These groups have met and will continue to meet periodically to identify and discuss issues related to the transport of **radioactive** materials. This Notice of Inquiry begins a notice and comment process in the Federal Register that will broaden participation in the discussion of Section 180(c) policy and implementation procedures.

The Department has released two documents that discuss Section 180(c) policy and implementation in light of the current regulatory environment and stakeholder concerns. These two documents are the Strategy for OCRWM to Provide Training Assistance to State, Tribal, and Local Governments (November 1992, DOE/RW-0374P), and the Preliminary Draft Options for Providing Technical Assistance and Funding Under Section 180(c) of the Nuclear **Waste** Policy Act, as Amended (November 1992). These documents are available by requesting the information packet from the OCRWM Information Center.

The Strategy paper identifies certain planning principles and steps needed to implement Section 180(c). It also addresses stakeholder

comments on the draft version of the document. The Preliminary Draft Options paper identifies various options available to the Department for implementing the funding and technical assistance requirements of the Act. The five option groups identified and discussed below are as follows: (1) Use established Federal agency programs other than the Department's, (2) establish agreements with State, local, tribal, and other organizations, (3) establish a Department-wide grant program, (4) establish an OCRWM grant program, or (5) select a mixed group of options comprising elements from the previous four groups.

The Department will further investigate the programs discussed in the Preliminary Draft Options paper to determine appropriate Section 180(c) policy and implementation procedures. The options, in greater detail, include:

(1) Use Established Federal Agency Programs Other Than the Department's

<bullet> The Federal Emergency Management Agency's Comprehensive Cooperative Agreement program (Civil Preparedness Guide: CCA General Program Guidelines, CPG 1-3/October 1992). The Federal Emergency Management Agency is responsible for coordinating emergency planning, preparedness, mitigation, and assistance functions of the Federal Government and as a part of that mission, the Comprehensive Cooperative Agreement mechanism channels financial and technical assistance through a single recipient for State and local governments.

<bullet> Department of **Transportation's** training and planning grants through the Hazardous Materials **Transportation** Act, as amended. This program, administered by the Department of **Transportation's** Research and Special [[Page 100]] Programs Administration, provides for reimbursable grants and requires applicants to provide a 20 percent funding match to States and Tribes.

<bullet> Department of **Transportation's** Federal Highway Administration: Highway shipments are the responsibility of the Federal Highway Administration, which encourages nationally uniform inspection and enforcement activity among the States through the Motor Carrier Safety Assistance program (Federal Register, Vol. 57, No. 174, Tuesday, September 8, 1992, pp. 40946-64).

<bullet> Department of **Transportation's** Federal Railway Administration: Federal Government oversight of railroad inspections has been shared by the Interstate Commerce Commission and the Federal Railroad Administration (49 U.S.C. Subtitle V, Part A).

(2) Establish Agreements With State, Local, Tribal, and Other Organizations

The Department of Energy has cooperative agreements with the Commercial Vehicle Safety Alliance, Conference of Radiation Control Program Directors, Council of State Governments/Midwest, League of Women Voters Education Fund, National Association of Regulatory Utility Commissioners, National Conference of State Legislatures, National Congress of American Indians, Southern States Energy Board, and Western Interstate Energy Board. These agreements facilitate communication with stakeholders to provide information about the OCRWM program and to receive feedback and comments from the stakeholders about the program. Similar agreements could be established for Section 180(c) implementation.

(3) Establish a Department-wide Grant Program

Internal Department-wide coordination of emergency response activities is through the **Transportation** Emergency Preparedness Program (DOE Order 5500.1B). The **Transportation** External Coordination Working Group, discussed earlier, provides a mechanism for external parties to participate in the Department's coordination and development of emergency response activities. The following is an explanation of other Department **transportation** emergency preparedness activities that might serve as models of or vehicles for some or all of Section 180(c) implementation.

<bullet> Department of Energy's **Waste** Isolation Pilot Plant: The 1992 **Waste** Isolation Pilot Plant Land Withdrawal Act (Pub. L. 102-579) has made financial and technical assistance to States and Tribes a legal requirement. Funds have been distributed to States through a cooperative agreement with the Western Governors' Association and with individual Tribes.

<bullet> Department of Energy's Environmental Restoration and **Waste** Management: The Office of Environmental Management is responsible for the development of all Department **transportation** policy with the exception of the transport of **civilian** spent nuclear fuel and high-level **waste** to a Nuclear **Waste** Policy Act facility and the **transportation** of weapons related materials or components. The office has funded **transportation** emergency response training for various Department shipments.

#### (4) Establish an OCRWM Grant Program

<bullet> Under this option, OCRWM would develop and implement its own program, specifically tailored to Section 180(c) requirements. The payment mechanisms could include a formula combining two or more grants, direct payments, or cooperative agreements.

#### (5) Use Elements From the Previous Four Groups

<bullet> Options from the preceding groups can be interchanged in a variety of ways. Since each option has elements that meet only portions of the Section 180(c) program requirements, it might be necessary to implement a variety of options.

Any Department decisions must weigh the applicability of each program option to Section 180(c) mandates to encompass **safe** routine **transportation** as well as emergency response capabilities over rail and highway modes for both State and Tribal recipients. In order to understand the benefits, costs and drawbacks of each program option, the Department will conduct an in-depth investigation of each program option.

#### Request for Submission

The Department solicits comments from the public on all aspects of Section 180(c) implementation, including but not limited to: Which option is the least administratively burdensome? Which option offers the greatest flexibility for recipients? What eligibility criteria do similar funding and training programs use? What formulas exist for division of funds among eligible parties? What restrictions should apply to the use of funds? How may funds be used in similar programs? What should be included under the term ``technical assistance''? Based on past experience, what types and scope of training activities would

be appropriate for implementation under Section 180(c)?

Issued in Washington, D.C., December 28, 1994.  
Lake Barrett,  
Acting Director, Office of **Civilian Radioactive Waste** Management.  
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